

THE HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARIA VARNEY,
Individually and as Personal Representative
for the Estate of **DONALD VARNEY,**

Plaintiff,

v.

**AIR & LIQUID SYSTEMS
CORPORATION**, individually and as
successor-in- interest to **BUFFALO
PUMPS, INC.;**
ARMSTRONG INTERNATIONAL, INC.;
BLACKMER PUMP COMPANY;
BNS CO., f/k/a **BROWN & SHARPE
MANUFACTURING COMPANY;**
CBS CORPORATION, f/k/a **VIACOM,**
INC., sued as successor-by-merger to **CBS
CORPORATION** f/k/a **WESTINGHOUSE
ELECTRIC CORPORATION** and also as
successor-in-interest to **BF
STURTEVANT;**
CLA-VAL CO.;
CLARK-RELIANCE CORPORATION,
sued as successor-in-interest to
**JERGUSON GAGE & VALVE
COMPANY;**
CRANE CO.;
CRANE ENVIRONMENTAL, INC.,
individually and as successor-in-interest to
COCHRANE CORPORATION;

Civil Action NO. 3:18-cv-05105-RJB

FIRST AMENDED COMPLAINT

JURY TRIAL DEMAND

CROSBY VALVE, LLC;
ELLIOTT TURBOMACHINERY CO.,
INC., a/k/a ELLIOTT COMPANY;
FLOWERVE CORPORATION;
FMC CORPORATION;
FOSTER WHEELER ENERGY
CORPORATION;
FRYER-KNOWLES, INC., a Washington
 corporation;
GENERAL ELECTRIC COMPANY;
THE GOODYEAR TIRE & RUBBER
COMPANY;
THE GORMAN-RUPP COMPANY;
GOULDS PUMPS LLC, f/k/a Goulds Pumps,
 Inc.;
GRINNELL LLC, d/b/a GRINNELL
 CORPORATION;
IMO INDUSTRIES, INC., individually and
 as successor in interest to IMO
 DELAVAL;
INGERSOLL-RAND COMPANY;
ITT, LLC, f/k/a ITT CORPORATION, ITT
 INDUSTRIES INC., ITT FLUID
 PRODUCTS CORP., HOFFMAN
 SPECIALTY MFG. CORP., BELL and
 GOSSETT COMPANY and ITT
 MARLOW;
JOHN CRANE INC.;
McNALLY INDUSTRIES, INC., successor
 in interest to NORTHERN FIRE
 APPARATUS;
PARKER-HANNIFIN CORPORATION;
SB DECKING, INC.;
STERLING FLUID SYSTEMS (USA)
LLC, f/k/a PEERLESS PUMPS CO.;
VELAN VALVE CORPORATION;
VIKING PUMP, INC. ;
WARREN PUMPS, LLC;
WEIR VALVES & CONTROLS USA,
INC., individually and as successor in
 interest to ATWOOD & MORRILL CO.,
 INC.;

Defendants.

I. PARTIES

Plaintiff MARIA VARNEY, the surviving spouse of decedent DONALD VARNEY, sues the above-named Defendants for compensatory damages, by and through the undersigned counsel, and hereby bring this First Amended Complaint.

Plaintiff MARIA VARNEY is suing on behalf of herself, individually, as well as on behalf of decedent DONALD VARNEY's estate. On April 6, 2018, the Superior Court of Washington County of King issued Letters of Administration and an Order appointing MARIA VARNEY as the administrator and Personal Representative of the Estate of Donald Varney (attached collectively as Exhibit A).

Defendants and/or their predecessors-in-interest are corporations who, at all times relevant herein, manufactured, sold, and/or distributed asbestos-containing products or products that were used in conjunction with asbestos and/or asbestos-containing products and/or equipment, and/or equipment solely designed to be used with asbestos-containing products mined, manufactured, supplied, processed, imported, converted, compounded and/or sold by the Defendants including, but not limited to, brakes, clutches, gaskets, and grinders designed solely to be used with asbestos-containing products, air compressors, heavy machinery and vehicles.

II. JURISDICTION

Decedent DONALD VARNEY was exposed to asbestos from Defendants' products in the state of Washington. At all times relevant herein, all Defendants resided in and/or transacted business in this state by mining, manufacturing, selling, producing, distributing, supplying, or otherwise purposefully placing into the stream of commerce asbestos-containing products or products used in conjunction with asbestos, products they purposefully directed into the state of Washington, and into Pierce County and the counties of DONALD VARNEY's exposure.

Therefore, Defendants may be served with process in Washington, pursuant to RCW 4.28.180 and 4.28.185.

This Court has jurisdiction over each and every named Defendant pursuant to RCW 4.12 *et seq.* and Washington case law: By selling, supplying, distributing, manufacturing, and/or causing to be used asbestos or asbestos-containing products to which Decedent was exposed in Washington, Defendants purposefully availed themselves of the privilege of doing business in Washington, thus invoking the benefits and protections of Washington's laws. Venue is appropriate pursuant to RCW 4.12.025 because Defendants "reside" in Pierce County, Washington: by currently transacting business in Pierce County and/or by transacting business at the time the cause of action arose in Pierce County.

Defendant Fryer-Knowles, Inc., a Washington corporation, is a Washington corporation.

III. FACTS

Decedent DONALD VARNEY (DOB: May 18, 1939; SSN: ***-**-0004) was exposed to asbestos and asbestos-containing products, which had been mined, manufactured, produced, and/or placed into the stream of commerce by the defendants and/or was exposed to asbestos through the use of products manufactured by defendants, and/or on premises controlled by defendants. As a direct and proximate result of this exposure, Decedent DONALD VARNEY developed mesothelioma. Plaintiffs provide the following information:

- A. Specific Disease: Mesothelioma
- B. Date of Diagnosis: August 2017
- C. Date of Death: February 8, 2018
- D. Military: Not Applicable
- E. Occupation(s): Marine Machinist, Mechanical Instrument Mechanic and Auto Mechanic

F. Places of Exposure: Various, including, but not limited to, Puget Sound Naval Shipyard, Bremerton, Washington and Hunters Point Naval Shipyard, San Francisco, California.

Decedent was further exposed through personal automotive repair, and through exposure to asbestos brought home on the clothes of his father (an auto mechanic) in Seattle, Washington.

G. Dates of Exposure: Shipyard exposure from 1957 to 1972; Automotive exposure from father 1940's to 1950's; and Personal automotive exposure from 1939 to 1957.

H. Current Address: Deceased – Not Applicable

IV. LIABILITY

Plaintiffs claim liability based upon the theories of product liability, including but not limited to negligence, strict product liability (Restatement (Second) of Torts § 402A and/or 402B), conspiracy, premises liability, the former RCW 49.16.030, and any other applicable theory of liability, including, if applicable, RCW 7.72 et seq. The liability-creating conduct of defendants consisted, inter alia, of negligent and unsafe design; failure to inspect, test, warn, instruct, monitor, and/or recall; failure to substitute safe products; marketing or installing unreasonably dangerous or extra-hazardous and/or defective products; marketing or installing products not reasonably safe as designed; marketing or installing products not reasonably safe for lack of adequate warning and marketing or installing products with misrepresentations of product safety.

V. DAMAGES

As a proximate result of Defendants' negligence and/or product liability and/or other basis of liability, Decedent DONALD VARNEY sustained pain, suffering, disability, and death in an amount not now known, but which will be proven at trial. Plaintiff MARIA VARNEY has sustained loss of spousal relationship as a result of DONALD VARNEY'S illness and death,

1 including a loss of emotional support, love, affection, care, services, companionship, and
2 assistance in an amount to be proven at trial. Decedent DONALD VARNEY also sustained
3 medical expenses, economic losses in an amount to be proven at trial.

4 Decedent DONALD VARNEY's surviving children, Dawn M. Brown, Teresa L. Davis,
5 Lori A. Maury and Sharon K. Whittaker have also suffered and will continue to suffer damages
6 for loss of emotional support, love, affection, care and companionship of their father, as well as
7 economic loss.

8 WHEREFORE, Plaintiff prays for judgment against the defendants and each of them as
9 follows:

10 1. For general and special damages specified above, including pain, suffering, loss of
11 parental-child relationship, and disability;

12 2. For medical and related expenses economic loss, all of which will be proven at the
13 time of trial;

14 3. Past and future loss of care, maintenance, services, support, advice, counsel, and
15 consortium which Plaintiff MARIA VARNEY would have received from Decedent DONALD
16 VARNEY before his illness, disability, and death caused by his exposure to asbestos;

17 4. For Plaintiff's costs and disbursements herein;

18 5. For prejudgment interest in the amount to be proven at trial; and

19 6. For such other relief as the Court deems just.

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A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

DATED this 9th day of April, 2019.

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CERTIFICATE OF SERVICE

I hereby certify under the penalty of perjury under the laws of the State of Washington that on the date below, I electronically served the foregoing with the Clerk of Court using the CM/ECF system, which will send notifications of such filing to all counsel of record.

DATED at Seattle, Washington, this 9th day of April, 2019.

s/ Rachel J. Torell

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